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11 ABSOLUTE DENTAL &
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13 UNITED STATES DISTRICT COURT

14 DISTRICT OF NEVADA

15 PAULINA KLEIP-SOTELO, an Individual,

16 Plaintiff,
17 vs.
18 ABSOLUTE DENTAL & ORTHODONTICS
19 PRADA, PLLC., a Domestic Professional
20 Limited Liability Company, DOES I -X; ROE
21 CORPORATIONS I -X.,
22 Defendant.

23 **STIPULATION AND [PROPOSED] ORDER
24 TO STAY DISCOVERY PENDING THE
25 COURT'S RULING ON DEFENDANT'S
26 MOTION TO DISMISS (ECF NO. 8)**

27 **(FIRST REQUEST)**

28 Plaintiff PAULINA KLEIP-SOTELO and Defendant ABSOLUTE DENTAL & ORTHODONTICS PRADA, PLLC., by and through their counsel of record, stipulate to stay discovery pending the Court's ruling on Defendant's Motion to Dismiss (ECF No. 8), which seeks dismissal of all claims in Plaintiff's Complaint.

In assessing a request to stay discovery, the Court decides whether it is necessary to speed the parties along in discovery or whether it is appropriate to delay discovery and spare the parties the associated expense. *Tradebay, LLC v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011). To make this assessment, the Court takes a "preliminary peek" at the merits of the purportedly dispositive motion, though, importantly, this "preliminary peek" does not prejudge the outcome of the motion, it merely evaluates whether an order staying discovery is warranted. *Id.* Defendant's Motion to Dismiss is the

1 type warranting a stay of discovery as Defendant has sought to dismiss all of Plaintiff's claims.
2 Moreover, no discovery is required to make a determination on the Motion to Dismiss and the Motion
3 to Dismiss raises threshold legal issues (e.g., statute of limitations, failure to exhaust administrative
4 remedies, and preemption). Accordingly, requiring the parties to conduct discovery on claims that
5 may be dismissed and may not be curable by amendment would cause an unnecessary expense on the
6 parties and potentially log the Court's docket with unnecessary discovery disputes on these claims.
7 Additionally, because Defendant moved to fully dismiss the case, Plaintiff has not been apprised of
8 which factual allegations Defendant intends to admit, and which Defendant intends to deny. Nor has
9 Plaintiff been apprised of the defenses Defendant intends to assert. Plaintiff believes this would limit
10 her ability to conduct full discovery while the Motion to Dismiss is pending. Plaintiff disputes the
11 arguments made in Defendant's Motion to Dismiss but agrees that the motion is of the type warranting
12 a stay of discovery.

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STIPULATION AND [PROPOSED] ORDER TO STAY DISCOVERY

Moreover, the parties have discussed commencing informal settlement discussions, which may result in an early resolution of this case. Thus, it would be appropriate to spare the parties the burden and expense of discovery in light of these reasons. Therefore, the parties jointly request the Court stay discovery until the Court rules on the Motion to Dismiss. If the Motion is not fully granted, the parties will submit a stipulated discovery plan and scheduling order within 21 days of the Court's ruling on Defendant's Motion.

Dated: May 15, 2020

Respectfully submitted,

Respectfully submitted,

/s/ Amy Thompson

WENDY M. KRINCEK, ESQ.
AMY THOMPSON, ESQ.
LITTLER MENDELSON, P.C.

Attorneys for Defendant

/s/ *Marta D. Kurshumova*

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HKM EMPLOYMENT ATTORNEYS

Attorneys for Plaintiff

IT IS SO ORDERED.

Dated: May 18, 2020.


JOHN G. SHADWELL

UNITED STATES MAGISTRATE JUDGE

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